

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

Sammie Smith,

Case No. 4:18 CV 512

Petitioner,

ORDER ADOPTING
REPORT AND RECOMMENDATION

-vs-

State of Ohio, et al.,

JUDGE JACK ZOUHARY

Respondents.

Petitioner filed for a Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1). Magistrate Judge Baughman issued a Report and Recommendation (“R&R”) (Doc. 20), which considered the Return of Writ, Traverse, and Supplement to Traverse, as well as Petitioner’s letter and his multiple requests for an evidentiary hearing (Docs. 3, 10–12, 14, 16, 18).

Following the R&R, Petitioner timely objected (Doc. 21), stating that he “respectfully extends his thanks to the Magistrate Judge for explaining in simple terms the reason the Federal District Court’s inability to hold an evidentiary hearing and rule on this Petitioner’s four grounds presented” (Doc. 21 at 1). The three-page Objection does not challenge the R&R’s rulings on the four grounds, but rather focuses on the ineffective assistance claims which the Magistrate Judge “indicated . . . were not supported with competent credible evidence” (*id.* at 3). Petitioner argues there was credible evidence under Ohio Revised Code Section 149.43, and that “both the trial and appellate court are guilty of collusion” (*id.* at 1, 3).

Having reviewed the record and the R&R, this Court finds Petitioner's Objection not well taken. Petitioner cannot overcome the procedural default of his ineffective assistance of counsel claims. *See Edwards v. Carpenter*, 529 U.S. 446, 451 (2000). He is not entitled to an evidentiary hearing on the issue. *See Bowling v. Parker*, 344 F.3d 487, 511 (6th Cir. 2003).

The R&R accurately and correctly rejected Petitioner's four grounds (*see* Doc. 20 at 22–28); this Court adopts it in its entirety. The Objection (Doc. 21) is overruled, and the Petition (Doc. 1) is denied in part and dismissed in part. This Court certifies there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. §2253(c). Further, an appeal from this Order could not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

November 27, 2019